

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

KENNIE JAY PHELPS,

Plaintiff,

Civil No. 06-4874 (MJD/JJG)

v.

REPORT AND RECOMMENDATION

SOCIAL SECURITY ADMINISTRATION,

Defendant.

Plaintiff commenced this action on December 13, 2006, by filing a self-styled complaint, and an application seeking leave to proceed in forma pauperis, ("IFP"). (Docket Nos. 1 and 2.) The Court previously examined Plaintiff's submissions, and determined that his complaint failed to state an actionable claim for relief. Therefore, in an order dated December 14, 2006, (Docket No. 4), the Court informed Plaintiff that his IFP Application would "not be granted at this time." That order gave Plaintiff an opportunity to file an amended complaint, and expressly advised him that if he did not file a new pleading by January 10, 2007, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

Plaintiff subsequently indicated that he was still interested in pursuing this action, and it appeared that he was attempting to retain counsel to represent him. Therefore, the Court entered a second order on February 27, 2007, (Docket No. 6), which extended the deadline for filing an amended complaint to March 20, 2007. That new order clearly reiterated that if Plaintiff failed to file a new pleading by the extended deadline, the Court would recommend that this action be summarily dismissed.

The extended deadline for filing an amended complaint has now expired, and Plaintiff still has not complied with the Court's prior orders. It has now been more than three months since Plaintiff initiated this action, and he still has not filed a viable pleading. Therefore, the Court will now recommend, in accordance with the two prior orders that have been entered in this matter, that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

The dismissal of this action will not preclude Plaintiff from initiating further legal proceedings. However, it appears that Plaintiff probably lacks the legal acumen needed to properly represent himself in a federal court case. Therefore, Plaintiff should consult with an attorney before pursuing any new legal action in the future.

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Docket No. 2), be **DENIED**;
and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: March 30, 2007

s/Jeanne J. Graham

JEANNE J. GRAHAM
United States Magistrate Judge

Pursuant to D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by April 19, 2007. A party may respond to the objections within ten days after service thereof. Any objections or responses filed under this

rule shall not exceed 3,500 words. A District Judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the United States Court of Appeals for the Eighth Circuit.